

Larry Richards, Pro Se, In Propria Persona, Counsel of Record for the Plaintiff: Larry Richards and HE APPOINTED
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT: Ms. Georgeana K. Roussos, Attorney at Law;
(415) 252-1922; The Roussos Law Firm, 77 McAllister, Second Floor, San Francisco, California 94102

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Larry Richards, Pro Se, In Propria Persona,
2625 Alcatraz Avenue #317, Berkeley,
California 94705-2702, AND IN CARE OF:
Ms. Georgeana Roussos, 77 McAllister, Second
Floor, San Francisco, California 94102,
Plaintiff, Pro Se,

Vs.

1.) MICHAEL J. ASTRUE, COMMISSIONER,
Social Security Administration, And
2. -50.) DOE(S) defendants, named, unknown
persons, In Care Of: UNITED STATES
ATTORNEY, Attention: Social Security
Defense Attorney, 450 Golden Gate, San
Francisco, California 94102,
Defendants, Et. Al.

Case No.: **CV-08-1532 PJH**

Pro Se Plaintiff Larry Richards' **Better**
Explanations of Complaint: Additions
to Complaint: and Brief of Oral
Arguments At Hearing: In Support Of
A Temporary Restraining ORDER

E-filing

Plaintiff has moved to appear by telephone at
Hearing on TRO: therefore for Court
Convenience, this is presented so the Court
can read what Plaintiff would normally
speak in the Courtroom because no-one
wants to listen to a speakerphone for a long
period of time; Plaintiff is disadvantaged by
this reality, but presents this in hope of
clarification: the following is submitted to
better explain, clarify and add to complaint.

Plaintiff's {partial} Brief for oral arguments at hearing for Temporary Restraining Order:

This Court consistently has held that some form of
hearing is required before an individual is finally de-
prived of a property interest. *Wolff v. McDonnell*, 418
U. S. 530, 557-558 (1974). See, e. g., *Phillips v.*
Commissioner, 283 U. S. 589, 596-597 (1931). See
also *Dent v. West Virginia*, 129 U. S. 114, 124-125

(1889). The "right to be heard before being condemned
to suffer grievous loss of any kind, even though it
may not involve the stigma and hardships of a criminal
conviction, is a principle basic to our society." *Joint*
Anti-Fascist Comm. v. McGrath, 341 U. S. 123, 168
(1951) (Frankfurter, J., concurring).

It is stunning to the Severely Abused Pro Se Plaintiff that the Honourable Associate Justice Felix
Frankfurter STILL had to comment on this due process issue as late as 1951! And it is even more
stunning to the Plaintiff that 57 years later it is STILL necessary to explain such abuse of due
process to THIS Honourable Court! But it is the CLEAR nature of Government to ABUSE, and
not to SERVE the people. 75 years ago this week, The Honourable Franklin Delano Roosevelt
signed the "New Deal" Legislation, which lead in part to the Social Security Administration. He
once said: "The only sure bulwark of continuing liberty is a government strong enough to protect
the interests of the people, and a people strong enough and well enough informed to maintain its
sovereign control over the government." --- Franklin D. Roosevelt, President of the United States

of America, April 14th 1938, Fireside Chat:

EXACTLY 70 YEARS AGO TODAY!

INTRODUCTION: General SSA Abuse and “Deliberate Distortion” of Truth:

My Case-At-Bar before this Honourable Court is a “Bivens” Case and a “Canty” Case and a “Mathews” Case. Meaning that this Plaintiff seeks the same relief the Court has previously GRANTED in *Bivens Vs. 6 Unknown Named Agents of the Federal Bureau of Narcotics*, 403 US 388 AND IN *Canty Vs. City of Richmond Virginia, Police Department*, 383 F.Supp. 1396 (E.D.Va.1974), Aff’d, 526 F.2d 587 (4 Cir. 1975) Cert. Denied, 423 U.S. 1062 (1976). Both these cases featuring the following Jurisdictional laws for this Court *inter alia*: 42 USC § 1981; 42 USC § 1983; 42 USC § 1985; 42 USC § 1986; 28 USC § 1331; 28 USC § 1343, see especially Note 50! in USCA! And CLEARLY, unquestionably of course this is a *Mathews Vs. Eldridge* 424 US 319 Case. Jurisdiction for this Court to issue the requested TRO, and move to Jury Trial in this case EASILY rests in these STARE DECISIS case-law decisions and vastly far more cases and actual written law! Plaintiff asserts that the SSA Defendants acted in BOTH their individual and their official capacities and under the color of law prescribed to them by the United States Congress and the Federal Government. Plaintiff also asserts that the SSA Defendants used, possessed, and controlled the Plaintiffs case and casefiles and acted jointly and severally and in cooperation and conspiracy with their employees and themselves to deprive Plaintiff of his rights under the Constitution, the laws of the United States, and the law of the States of California, Hawaii, Oklahoma, and Missouri. The Complaint asserts that this Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 and numerous other statutes; and pendant jurisdiction over any tort claims arising under California, Hawaii, Oklahoma, and Missouri state law. 28 U.S.C. § 1343(a)(3)(1979) provides the district courts with the absolute duty to determine jurisdiction and the proper head of jurisdiction in a Pro Se Civil Rights Deprivation Case such as this one (citing *Canty Vs. City of Richmond Police Dep’t.*, 333 F. Supp. 1396 (E.D.Va.); additionally, 28 U.S.C. § 1331 (1980) states that “the district courts shall have original jurisdiction of all civil actions arising under

1 the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1343(a)(3)(1979) provides the
2 district courts with original jurisdiction over civil actions authorized by law to be commenced by any
3 person to “redress the deprivation, under color of any State law, statute, ordinance, regulation,
4 custom, or usage, of any right, privilege, or immunity secured by the Constitution of the United
5 States or by any Act of Congress providing for equal rights of citizens or of all persons within the
6 jurisdiction of the United States.” Plaintiff asserts that each Defendant had opportunities to prevent
7 these acts from occurring but failed to do so, that each and every Defendant KNEW OR SHOULD
8 HAVE KNOWN that their conduct was both criminal and maliciously harmful to Plaintiff; Could
9 have and SHOULD HAVE immediately acted to protect and preserve the UNALIENABLE RIGHTS
10 GUARANTEED TO PLAINTIFF BY THE CONSTITUTION OF THE UNITED STATES OF
11 AMERICA and instead, assisted in and adopted such CLEARLY unlawful conduct and deliberately
12 with intentional malice caused the most brutal, life threatening injuries possible to PERMANENTLY
13 PHYSICALLY DISABLED Plaintiff!! And that this court must, in immediately issuing this TRO,
14 deliberately send a chilling effect published throughout the entire Social Security Administration –
15 and hopefully all other alphabet soup lettered government agencies – that EVERY BUREAUCRAT,
16 no matter how lowly ranked, MUST ACT WITH IMMUNITY, AND INDEED ACTIVE POSITIVE
17 SUPPORT OF THE ENTIRE AGENCY AND REWARD FROM THE ENTIRE AGENCY, IN
18 ANY INSTANCE DETECTED WHERE ERROR OR OMISSIONS FROM THE AGENCY
19 RECORD, OR FALSE ENTRY INTO THE AGENCY RECORD COULD ADVERSELY EFFECT
20 ANY FREE AMERICAN CITIZEN OF THE UNITED STATES, OR JEOPARDIZE ANY CIVIL
21 OR ABSOLUTELY UNALIENABLE CONSTITUTIONAL RIGHT OF ANY FREE AMERICAN
22 CITIZEN OF THE UNITED STATES OF AMERICA!

23
24 The main thrust of the Complaint is that the above alleged actions give rise to liability under
25 42 U.S.C. §§§§ 1981, 1983, 1985 and 1986 and, Bivens (citing *Bivens Vs. 6 Unknown Named Agents*
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1 of the Federal Bureau of Narcotics, 403 US 388). Plaintiff demands a Temporary Restraining Order
2 (TRO) restraining ALL Defendants from refusing to pay Plaintiff his 270 (currently now 271)
3 LAWFULLY ENTITLED PROPERTY RIGHT OF DISABILITY BACKPAYMENTS AND
4 CURRENT PAYMENTS (citing *Mathews Vs. Eldridge* 424 US 319 – 322). Additionally, Plaintiff
5 seeks seven times the actual amount owed in criminally denied disability BACKPAYMENTS AND
6 CURRENT PAYMENTS. UNQUESTIONABLY the Defendants clearly owe the Plaintiff – then at
7 the time of the filing of this complaint 270 monthly disability payments and now 271 and by the time
8 this is heard likely 272, 273 OR MORE {AND ONLY ESTIMATED as totaling about \$500,000.00}
9 in BACKPAYMENTS AND CURRENT PAYMENTS for disability payments; AND PLAINTIFF
10 SEEKS THAT AS YET UNDETERMINED AMOUNT, BUT PRECISELY NUMBERED AS 271,
11 OR 272,3 OR WHATEVER EXACT MONTHS OF BACKPAYMENTS AND CURRENT
12 PAYMENTS TO BE PAID IMMEDIATELY UNDER THE TERMS OF THE TEMPORARY
13 RESTRAINING ORDER. MOREOVER the Plaintiff SEEKS SEVEN TIMES whatever that
14 precise BACKPAYMENTS AND CURRENT PAYMENTS amount is determined to be, as
15 compensatory damages; and Plaintiff seeks punitive damages in an amount that this Court considers
16 fair, just, and reasonable. Plaintiff also seeks CRIMINAL REFERRAL BY THIS COURT, TO THE
17 ATTORNEY(S) GENERAL OF THE UNITED STATES, OF THE DEFENDANTS FOR
18 CRIMINAL PROSECUTION. Plaintiff also seeks attorney's fees and costs, pursuant to 28 U.S.C. §
19 1988 (2000)(allowing the court to award attorney's fees to the prevailing party in an action brought
20 pursuant to, among others, 42 U.S.C. §§ 1983). To the present, Plaintiff has not retained counsel and
21 is proceeding pro se, BUT HAS FILED AN EXPARTE MOTION TO APPOINT MS.
22 GEORGEANA ROUSSOS AS ATTORNEY PURSUANT TO THE EQUAL ACCESS TO
23 JUSTICE ACT, 5 USC §§ 504; 554, and therefore Plaintiff seeks the Court to APPOINT Ms.
24 Roussos as the attorney over the Social Security Issues and if then necessary a Civil Rights Attorney

1 Robert Borton – whom Plaintiff is yet to ask for help – over the Civil Rights issues and to
 2 additionally pay them under the Equal Access to Justice Act AS WELL.

3 THIS COURT MUST ISSUE A TRO THAT IMMEDIATELY REQUIRES THE SSA
 4 DEFENDANTS TO PAY THE PLAINTIFFS ENTIRE 272 (? Or 273? depending upon date of
 5 hearing) disability BACKPAYMENTS AND CURRENT PAYMENTS. In issuing the TRO the
 6 Court might be ANTICIPATING a “12 B 6 MOTION” from the Defendants, therefore this Court
 7 could apply the standard for a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil
 8 Procedure. In ruling on such a motion to dismiss, the Court MUST construe the complaint in the light
 9 most favorable to the Plaintiff, taking all allegations as true and giving the Plaintiff the benefit of all
 10 reasonable inferences. (See *Cooperman v. Individual Inc.*, 171 F.3d 43, 46 (1st Cir. 1999); *Figueroa*
 11 *v. Rivera*, 147 F.3d 77, 80 (1st Cir. 1998); *Gross v. Summa Four, Inc.*, 93 F.3d 987, 991 (1st Cir.
 12 1996). Dismissal under Rule 12(b)(6) is appropriate only if "it appears beyond doubt that the plaintiff
 13 can prove no set of facts in support of his claim which would entitle him to relief." *Hishon v. King &*
 14 *Spalding*, 467 U.S. 69, 73 (1984)(citing *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)); *Dartmouth*
 15 *Review v. Dartmouth Coll.*, 889 F.2d 13, 16 (1st Cir. 1989); 5A Charles Allen Wright, Arthur R.
 16 Miller & Richard L. Marcus, Federal Practice and Procedure (2d ed. 1997 & Supp. 2003). et al., §
 17 1357. See also, *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972)(quoting Conley, and noting that a pro
 18 se complaint is held to a less stringent standard than formal pleadings drafted by counsel); *Rodi v.*
 19 *Ventetuolo*, 941 F.2d 22, 23 (1st Cir. 1991)(citations omitted)(noting that a pro se complaint is to be
 20 read with an extra degree of solicitude). A trial court must exercise this discretion liberally,
 21 especially when the complaint alleges a violation of civil rights. *Ayala Serrano v. Collazo Torres*,
 22 650 F. Supp. 722, 726 (D.P.R. 1986) at 726(citing *Canty v. City of Richmond Police Dep't.*, 333
 23 F.Supp. 1396 (E.D.Va. 1974), aff'd., 526 F.2d 587 (4th Cir. 1975)). See also *Ayala Serrano*, 909 F.
 24 Supp. 2d at 12 (noting that the pleadings of pro se litigants are to be liberally construed). See also

1 Legal Compl., at paras 1 & 7-22. AND UNQUESTIONABLY CLEARLY – NO MATTER HOW
2 MUCH THIS COURT MIGHT SEEK TO IGNORE IT, OR THE DEFENDANTS CRIMINALLY
3 REJECT IT – THE PLAINTIFF HAS PRESENTED AT LEAST TWO CLEAR OBJECTIVE
4 PRIMA FACIE PIECES OF PROOF AS EVIDENCE OF THE REPEATED FRAUD OF THE SSA
5 DEFENDANTS. FIRST THIS COURT HAS IN EXHIBIT #3 THE CLEAR RECORD OF
6 REPEATED MAGNETIC RESONANCE IMAGING OF A TUMOR IN PLAINTIFF’S SPINE
7 EXTANT PRIOR TO EVEN THE ORIGINAL DISABILITY APPLICATIONS WHICH THE
8 DEFENDANTS MUST IGNORE INORDER TO CRIMINALLY DENY PLAINTIFF HIS
9 DISABILITY BACKPAYMENTS AND CURRENT PAYMENTS AS IT IS PRIMA FACIE
10 DISABLING; AND JUST AS POWERFUL, SECOND THIS COURT HAS THE CLEAR RECORD
11 OF THE PREVIOUS CASE BEFORE THIS COURT IN #98–4132Cal WHEREIN THE
12 DEFENDANTS CLEARLY REPRESENTED TO THIS COURT THAT THEY WOULD RETURN
13 THIS CASE TO JANUARY 6TH, 1987 AND CORRECT THEIR ERRORS AND PAY THE
14 PLAINTIFF AND YET NEVER DID SO BECAUSE THEY HAD NO INTENTION TO HONOR
15 THEIR REPRESENTATIONS TO THIS HONORABLE COURT! These two pieces of Prima Facie
16 evidence alone justify the harshest possible actions by this Court against these recalcitrant
17 Defendants, and UNQUESTIONABLY, CLEARLY these Prima Facie evidence requires this Court
18 to immediately issue the TRO, and swiftly with all deliberate speed move this case to Jury Trial. But
19 there is, much further indisputable evidence: [to be presented after this next closing paragraph]

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24 (Finally, yes of course Plaintiff understands there are differences in my case from those
25 cited, Bivens was 4th Amendment, No, I was not illegally searched, but I was illegally seized through
26 my 5th Amendment PROPERTY RIGHTS, Canty was about the Police, but I, like Canty, am Pro Se
27 and assert my ABSOLUTE right to bring a civil rights claim UNDER THE FIRST AMENDMENT
28 OF THE UNITED STATES CONSTITUTION TO PETITION [THIS COURT WHICH IS THE

ONLY AND PROPER VENUE FOR] THE GOVERNMENT FOR A REDRESS OF GRIEVANCES which this Court MUST HEAR AND ISSUE TRO UPON “**NO MATTER HOW ARTLESSLY THIS CLAIM IS PRESENTED**” (technically not quoting but paraphrasing Canty), and Mathews was about Title 2 disability payments while my case is about Title 2 **AND** Title 16, but in the footnote of Mathews the United States Supreme Court NOTES THAT EVEN MORE PROTECTIONS SHOULD BE EXTENDED TO THOSE SAD DISABLED WHO ARE ON TITLE 16 and yet such extra protections – for example the legislative intent of Congress clearly expresses that protection in 42 US 423 (g)(1) (c) – have not only never been extended to THIS INNOCENT PLAINTIFF, BUT HAVE BEEN INTENTIONALLY WITH MALICE DENIED TO THIS INNOCENT PLAINTIFF!!)

COMES NOW, the Pro Se, In Propria Persona, Severely ABUSED Plaintiff Larry Richards and HEREBY, **MOVES** this Honourable Court TO ISSUE THE PREVIOUSLY REQUESTED TEMPORARY RESTRAINING ORDER, AND FURTHER TO DIVEST THIS RECALCITRANT AGENCY OF JURISDICTION IN THIS CASE AND MATTER OF Larry Richards! Because the Court **MUST SEND A CHILLING EFFECT** into the hearts and minds of EVERY BUREAUCRAT IN EVERY FEDERAL AGENCY, especially *this* recalcitrant Agency! Only the chilling effect of requiring the SSA Defendants to first pay the Plaintiff his **ENTIRE** Backpayments; and then face this Plaintiff in a “440 other Civil Rights lawsuit”, – claiming Jurisdictions under the *stare-decisis caselaw* of *Bivens Vs. 6 Unknown Named Agents of the Federal Bureau of Narcotics*, **supra**, AND under *Canty Vs City of Richmond Police Department*, **supra**, as well as a Social Security Fraud lawsuit with Jurisdiction INTER ALIA under *Mathews Vs. Eldridge*, **supra**, [and also of course under tons of SSA regulations], thereby uncovering their extreme multitude of “mistakes”, distortions, deliberate denial of true objective provable facts, and outright lies leading to Fraud and

1 willfully covering up those lies by destroying the weak innocent claimants lives instead of correcting
2 their errors thereby exposing the SSA Defendants to MORE than just a Social Security Fraud case,
3 but also a Civil Rights Discrimination and Abuse Case will teach this recalcitrant agency to STOP
4 BRUTALLY ABUSING AND DESTROYING the fragile innocent claimants who are the weakest
5 individuals in the United States and therefore an easy target that cannot fight back. Only the chilling
6 effect of paying this innocent Plaintiff record damages AND THEN FACING CRIMINAL
7 REFERRAL FOR PROSECUTION can teach this recalcitrant agency and hopefully all Federal
8 Agencies: that excellence in work ethics is the goal; that honest mistakes are made by every human
9 being; that immediate acknowledgement and correction of mistakes is not only healing to the abused
10 recipient of the unintentional mistake, but also healing to the bureaucrat that committed the mistake
11 to become more diligently vigilant in their work from that moment forward because they must be
12 mindful of the severe damage even an unintentioned mistake can wreak upon the innocent victim;
13 and that even when acknowledged a mistake must be paid for and fully compensated. BUT MUCH
14 WORSE, to blatantly cover up, and falsify, and disguise mistakes, and repeatedly reinforce mistakes
15 as being correct, is actual verifiable FRAUD, because the PARAMOUNT DUTY of any Federal
16 Bureaucrat is to CORRECT a mistake once it is pointed out NOT DENY IT, AND COVER IT UP,
17 AND COMPOUND IT!

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23 **SSA GENERAL ABUSE OF MORE CLAIMANTS THAN JUST THIS PLAINTIFF:**

24 Your Honor, The Recalcitrant SSA Defendants have INTENTIONALLY created a climate
25 and fertilized an environment in which all SSA employees are so covetous of Social Security
26 Disability Payments that they INTENTIONALLY DEFRAUD innocent Claimants of their lawful
27 rights of Disability Payments with such dogged BRUTALITY that it is as if the money comprising
28 the disability payments were the actual personal property of the bureaucrat stuck behind the desk!

1 Zealous abuse of administrative process by SSA bureaucrats combined with ridiculous vast and
2 unnecessary rules and regulations are deliberately designed to prevent access, or at least deny and
3 repeatedly delay for many years access, to the disabled frail claimants; and establish impossible
4 hurdles for the weak claimant to DIE because of, rather than overcome! Plaintiff would not at all be
5 surprised to discover that SSA bureaucrats earn a salary bonus of 75% of all the disability payments
6 money that they deny, SO INTENSE IS THEIR ZEAL TO ABUSE CLAIMANTS! It is
7 ABSOLUTE ROUTINE practice to repeatedly DENY EVERY CLAIM, no matter who files it or
8 how severe it is. Plaintiff would invite the Defendants to present VERIFIABLE records of how many
9 people apply per year and how many applications for disability payments are approved within the
10 first 90 days of the initial application. Plaintiff GUARANTEES the percentage is far less than one
11 percent. In fact in 22½ YEARS of doing this investigation, Plaintiff has NEVER FOUND ONE
12 PERSON approved for disability payments on the initial application! **Because the SSA Defendants**
13 **know that deliberate denial of true facts tends to discourage frail weak innocent claimants. The**
14 **SSA Defendants WILLFULLY INTENTIONALLY WITH MALICE abuse ALL applicants for**
15 **disability payments by repeated denials and piling on of unnecessary administrative process**
16 **AND abusive use of Res Judicata inorder to discourage, wear down, and deliberately destroy**
17 **the lives of the very people it is their alleged job to serve, assist, and help! Plaintiff could**
18 **EASILY parade over 50 persons into this Courtroom who have been so deeply abused and scarred by**
19 **the Social Security System as to not even be willing to apply again for benefits although they are**
20 **clearly in need of them. It is a very common joke among social service agencies and Social Security**
21 **Attorneys that, "if you were not mentally ill when you began the process of applying for disability**
22 **payments you certainly will be before you complete the process."**—Dave Crow, attorney. The SSA
23 intentionally has constructed an elaborate administrative process that is deliberately designed to
24 frustrate both Justice and the innocent claimant into abandoning the claim long before the SSA ever

1 has to pay it! This is the CLEAR reason the SSA now hides behind reinforced glass windows,
2 security coded doors, and has gun toting armed security guards in every office – they KNOW that
3 they are willfully frustrating the weakest most vulnerable Americans who have EARNED the
4 disability payments they weakly and meekly seek only to be destroyed by the very employees
5 charged with helping them. Dozens of books have been written about this administrative torture: [for
6 example, See: Dubin, *Torquemada Meets Kafka: The Misapplication of the Issue Exhaustion*
7 *Doctrine to Inquisitorial Administrative Proceedings*, 97 Column L. Rev. 1289 (1997)] THE ONLY
8 SOLUTION TO THE ARROGANT TORTURE THE SSA DEFENDANTS WILLFULLY WITH
9 MALICE ROUTINELY ENGAGE IN, IS TO PUNISH THIS AGENCY TO THE FULLEST
10 EXTENT POSSIBLE UNDER LAW AND DELIVER THE EXACT SAME FINANCIAL
11 DEVASTATIONS TO BOTH THE SSA AND THE SSA DEFENDANTS IN BOTH INDIVIDUAL
12 AND OFFICIAL CAPACITIES THAT THEY HAVE INTENTIONALLY WREAKED INTO THE
13 LIFE OF THIS INNOCENT PLAINTIFF! AND ALLOW THIS CASE TO BECOME A CIVIL
14 RIGHTS CASE AS WELL AS A SOCIAL SECURITY FRAUD CASE AND ORDER THE TRO
15 APPLIED FOR TO IMMEDIATELY REQUIRE FULL BACK PAYMENT OF PLAINTIFF'S 271
16 MONTHLY DISABILITY PAYMENTS, AND DIVEST THIS AGENCY OF JURISDICTION!
17 AND REQUIRE THE FULL ELIMINATION AND REWRITING OF THE GUIDELINES BY
18 WHICH THIS RECALCITRANT AGENCY OPERATES. Otherwise, once again, the SSA
19 Defendants will chortle away, gleeful they have fooled and escaped from yet another United States
20 District Court Judge! And not even remorse that they have devastated and destroyed yet another
21 innocent disabled persons life. It is torture enough that the disabled must learn to live with the torture
22 of their disabilities, it is another thing entirely to have even greater destruction intentionally visited
23 upon them by the very government bureaucrats allegedly employed – at huge government salary and
24 pension – to help, serve, comfort, and pay them!

INTRODUCTION – TO FRAUD MALICIOUSLY VISITED ONTO PLAINTIFF**1.) MALICIOUS DENIAL of the EXISTENCE of TUMOR in PLAINTIFF to DENY PAYMENTS**

{notation major claims marked by an “arrow-point” “ ►”} **JUDICIAL NOTICE #5 Plaintiff calls the attention of the Court to Exhibit #3 of either the Complaint or the Motion for TRO!**

► It is into this noxious, poisonous environment that the entirely innocent, permanently physically disabled Plaintiff stumbled, like an innocent lamb, waiting to be devoured by cravenly bureaucratic wanton wolves. The LEGISLATIVE INTENT of the “New Deal” era Social Security Legislation, of which this is the 75th anniversary, was to provide security to those unfortunate few individuals sadly injured and disabled to work. In “Plaintiff’s Exhibit #3” The tumor in Plaintiff’s mid-thoracic spine is PRIMA FACIE DISABLING! (SEE: The Social Security Law, APPENDIX of 20 CFR Part 404, Subpart P, Appendix 1, Part A, § 1.00et.seq. Musculoskeletal [Especially: 1.00(b); 1.05 (b)(1); 1.05(c)(1); 1.13] AND 20 CFR Part 404, Subpart P, Appendix 1, Part A § 11.00et.seq. Neurological [Especially 11.00(c);11.03; 11.04(b); 11.08]) SO because the tumor in Plaintiff is Prima Facie Disabling and clearly extant prior to the Plaintiff’s initial Title 2 SSDI and Title 16 SSI applications, it clearly is a pre-existing condition that automatically links and connects the Plaintiff DIRECTLY to his Title 2 SSDI disability payments. **Moreover, because the Plaintiff became disabled prior to age 20 the Plaintiff claims AND IS LEGALLY ENTITLED TO RECEIVE Title 2 disability payments BASED UPON HIS DECEASED FATHER’S LIFETIME SOCIAL SECURITY EARNINGS, because he is his father’s only child, Plaintiff is entitled to 80% of his deceased Father’s age 65 retirement benefits!!!** THAT IS WHY YOU WILL NEVER EVER FIND ANY ACKNOWLEDGEMENT OF THE EXISTENCE OF THIS TUMOR IN ANY SOCIAL SECURITY DOCUMENT EVER ISSUED IN THE 22½ YEARS OF THIS CASE! **This is NOT ACCIDENTAL**; the SSA Defendants MUST deliberately ignore and deny the existence of such a PRIMA FACIE OBJECTIVELY PROVABLE piece of evidence favorable to the Plaintiff’s Title 2 SSDI disability payments claims, WHICH BECAUSE IT WAS

1 PRE-EXISTING EVEN BEFORE THE ORIGINAL APPLICATION DIRECTLY LINKS THE
 2 PLAINTIFF TO HIS EARNINGS BASED DISABILITY PAYMENTS because it will
 3 IMMEDIATELY REQUIRE THE SSA Defendants to PAY THE PLAINTIFF based upon his
 4 deceased FATHER'S earnings for now 271 months of payments. The Criminal Fraud of this issue
 5 alone MERITS THE DIVESTMENT OF JURISDICTION FROM THIS RECALCITRANT
 6 AGENCY. Moreover the Court MUST take advantage of this opportunity and DIVEST this agency
 7 of the entire application process for every applicant, because the torture of this process for the
 8 disabled person is so inhumane, so abusive as to actually be *CRUEL AND UNUSUAL*
 9 *PUNISHMENT* of the innocent disabled person who is more often than not, disabled as the result of
 10 some unfortunate externality beyond the disabled persons control. THE COURT has taken this
 11 DIVESTMENT action in other areas of *cruel and unusual punishment*; for example, fairly recently in
 12 the Oakland Federalized Public School System, and less recently in the severe overcrowding of the
 13 California Prison System. In other words the disabled person is already severely abused by pure
 14 chance, some misfortune has found the disabled person and now the Federal Government
 15 exponentially compounds the abuse into such severe *cruel and unusual punishment* by it's purely
 16 abusive administrative process, that THIS COURT MUST ACT PROGRESSIVELY IN THE
 17 INTEREST OF ALL DISABLED PERSONS AND ORDER THE REVAMPING OF THE SOCIAL
 18 SECURITY PROCESS, SIMPLIFYING AND STREAMLINING IT AND PROTECTING ALL
 19 DISABLED PERSONS FROM THIS WILDLY ABUSIVE AGENCY RUN AMUCK! The history
 20 of our legal system extending all the way back to the Magna Carta is one of reigning in the doctrine
 21 of Sovereign Immunity when the abuse extends to an entire class of the public, such is the case now,
 22 highlighted by this case-at-bar and the malicious abuse of this innocent Plaintiff.

23 **ADDITIONAL MALICIOUS FRAUDULENT ABUSE OF PLAINTIFF:** The Fraud of the SSA
 24 Defendants of willfully, with malice, refusing for 22½ years to even acknowledge the Prima Facie
 25

Objective Evidence MRI's of the existence of a pre-existing disabling condition spinal tumor that connects the innocent Plaintiff to his entire SSDI disability payments based on his deceased father's age 65 retirement earnings for 271 consecutive months IS JUST A "SMALL TIP OF THE ICEBERG" of the rampant Fraud the SSA Defendants have WITH MALICE, willfully committed onto the innocent Plaintiff. In addition to much more, The SSA Defendants have:

►► Fraudulently represented to a United States District Court Judge to re-evaluate this case from January 1987 and not actually done so, otherwise we would not need to be heard today!

► Fraudulently refused to honor their representations to go back to the beginning of the Plaintiff's case, or to even allow Plaintiff access to resolving his case because of alleged "T-1" status.

► Maliciously refused to deal with or acknowledge Plaintiff and/or Plaintiff's Pro Bono Attorney Georgeana Roussos when repeatedly contacted in the San Francisco office for a resolution.

► Fraudulently refused to follow the KNOWN legislative intent of Congress to provide payment continuations [42 USC 423 (g)(1)(c)] as a due process property right, with the Congress intentionally seeking to avoid any harms accruing to an innocent injured Plaintiff because of the "errors" of this recalcitrant agency.

► Fraudulent refusal to conduct a Formal Conference when one was clearly timely requested before unlawfully terminating Plaintiffs disability payments without a hearing in clear violation of the DUE PROCESS PROPERTY RIGHTS guaranteed the Plaintiff under the 5th amendment of the United States Constitution, and SEE: Mathews Vs. Eldridge 424 US 319 – 322 wherein the Courts have determined that Social Security payments are a statutorily created property right!

► Fraudulent refusal to acknowledge the Court's ruling in Mathews Vs. Eldridge 424 US 319 stating that a decision to terminate disability payments IS A 405 g "final decision of the commissioner" entirely sufficient for determining the Court's Jurisdiction, for Subject Matter Jurisdiction.

1 ► Fraudulent representations to a Federal Judge that indeed a case CURRENTLY RESIDING at the
 2 highest level of the SSA Defendants administrative process, The Appeals Counsel in Falls Church
 3 Virginia, and the Office of Mr. Carmine Borelli, MUST INSTEAD HAVE EVEN MORE
 4 ADMINISTRATIVE PROCESS {which the Plaintiff again points out was never actually carried out}
 5 and be returned to a small local office half way across the country IN A BLATANT ABUSE OF
 6 PROCESS, and of the Complete Administrative Exhaustion Process Doctrine. Clearly the Fraudulent
 7 defendants deliberately lied to a Federal Judge, telling him that this case must have more
 8 administrative process and yet never actually conducted any further process for the ONLY AND
 9 SOLE PURPOSE OF OBTAINING A DISMISSAL FROM THE COURT ON 405g grounds.
 10

11 ► Fraudulent refusal to CORRECT an AGREED upon wrong date entered into a form by a case –
 12 worker who may or may not have accidentally recorded the wrong onset date of disability of the
 13 Plaintiff as: 12/31/1985, when the Plaintiff has no idea what happened to anyone on that date other
 14 than a large number of people celebrated the change of a calendar page, certainly nothing has ever
 15 happened to the Plaintiff on that date! However THE PLAINTIFF HAS OBJECTIVE PROOF THAT
 16 ON HIS ACTUAL ONSET DATE OF DISABILITY MARCH 31st, 1980 He was hit from behind in
 17 an automobile accident “in excess of 50 miles per hour with no skid marks visible” according to the
 18 objective police report. AND THIS IS KEY BECAUSE ONCE AGAIN, JUST AS IN IGNORING
 19 THE PRIMA FACIE EVIDENCE OF A PRE EXISTING SPINAL TUMOR CONNECTING THE
 20 PLAINTIFF TO HIS TITLE 2 EARNINGS BASED DISABILITY PAYMENTS BEFORE THE
 21 ORIGINAL APPLICATION DATE; THE ACTUAL CORRECT DATE OF 3/31/80 PROPERLY
 22 CONNECTS AND LINKS THE PLAINTIFF TO HIS EARNINGS BASED DISABILITY
 23 PAYMENTS! BUT WHEN AN ARBITRARY DATE FIVE AND ONE HALF YEARS LATER IS
 24 SELECTED BY AN SSA WORKER, EITHER KNOWINGLY OR UNKNOWINGLY, {when
 25 unknowingly is exceedingly unlikely as even the stupid, innocent Plaintiff understands that the SSA
 26
 27
 28

1 rules require a certain number of quarters worked, clearly a caseworker familiar with such quarterly
2 determination is aware of such rule} AND THEN SUCH A WRONG DATE WRONGLY APPLIED,
3 DELIBERATELY DISCONNECTS THE PLAINTIFF FROM HIS TITLE 2 EARNINGS BASED
4 DISABILITY PAYMENTS. NOW IF THIS WERE AN INNOCENT ACCIDENTAL MISTAKE
5 **THE AGENCY HAS HAD NO LESS THAN 10 SEPARATE OPPORTUNITIES AND 22 ½**
6 **YEARS TO CORRECT THIS MISTAKE AND YET IT JUST SOMEHOW HAS NEVER**
7 **MANAGED TO GET THE JOB DONE.** BECAUSE THE WILLFUL MALICIOUS INTENT OF
8 THESE FRAUDULENT CRIMINAL SSA DEFENDANTS IS TO DEFRAUD, DENY AND NOT
9 EVER PAY DISABILITY CLAIMS.
10

11
12 ►► now I admit that this next issue is trivial in comparison to the above criminal frauds, but it is
13 indicative of the blatant attitude that the SSA Defendants KNOW that the can lie and willfully
14 commit falsehood with absolute impunity! that: The SSA Defendants IN WRITING claim that in an
15 attempt to WARN this Innocent Plaintiff that they are about to terminate my disability payments that
16 they – wonderful, kind, dedicated souls that they are – actually went to the trouble and extra effort
17 TO VISIT ME IN MY HOME, AND TRY TO WARN ME THAT THEY WERE TERMINATING
18 MY SSI PAYMENTS, THEY DID AT LEAST LIST MY CORRECT ADDRESS, THAT IS ALSO
19 LISTED IN THIS CASE AS WELL, AS 2625 Alcatraz Avenue #317 Berkeley, California 94705–
20 2702. But unfortunately there is only one problem with this blatant lie! 2625 Alcatraz is a
21 postal MAIL BOX THAT IS TWO INCHES WIDE AND THREE INCHES HIGH AND SIX
22 INCHES DEEP AND IT IS TRULY CRAMPED WHENEVER I RECEIVE VISITORS
23 THERE as there is barely enough space for me and my wheelchair to move about! SO THE
24 STORY OF THE SSA THAT THEY VISITED ME THERE LACKS SUBSTANTIAL
25 CREDIBILITY! ► In a similar manner the ALJ Slater lied some 14 times in a 3–page order and
26 report inorder to deny Plaintiff a timely hearing. (See: CV–98–4132 CAL)
27
28

A TINY portion of stare decisis CaseLaw, applicable:

Bethesda Hospital Association Vs. Bowen, 485 US 399, 406 – 407 (1988)

Bivens Vs. 6 Unknown Named Agents of the Federal Bureau of Narcotics, 403 US 388

Canty Vs. City of Richmond Virginia, Police Department, 383 F.Supp. 1396 (E.D.Va.1974), Aff'd, 526 F.2d 587 (4 Cir. 1975) Cert. Denied, 423 U.S. 1062 (1976) featuring the following:

42 USC§1983; 42 USC§1985; 42 USC§1986; 28 USC§1343, see especially Note 50! in USCA

Mathews Vs. Eldridge, 424 US 319

Unquestionably, this Plaintiff CLEARLY UNDERSTANDS that because this is a Pro Se Case with

an Unrepresented Plaintiff, this Honourable Court is LOATH to ISSUE the applied for TRO and then

DIVEST this RECALCITRANT Agency, of Jurisdiction; LOATH to even assert 405 g Jurisdiction

under Mathews Vs. Eldridge 424 US 319–322; and particularly LOATH to declare this a “Bivens”

case and a “Canty” case; and LOATH to EVEN CONSIDER that this Case is a “440 OTHER CIVIL

RIGHTS” case against the Federal Government. Unfortunately for the Court IT HAS NO CHOICE!

28 USC 1343 DOES NOT GIVE THE COURT ANY LATITUDES IN THIS MATTER! IT and

Canty SAYS THE COURT MUST CONSTRUE IN PLAINTIFF’S FAVOR ANY AND ALL

JURISDICTIONAL HEADS FOR A CLAIM FOR CAUSE OF ACTION NO MATTER HOW

INARTFULLY THIS CLAIM IS PRESENTED. IN ESSENCE, because of Canty, THE COURT

MUST MOVE FROM IT’S TRADITIONAL STOIC NEUTRALITY, OF NEVER FAVORING OR

ADVOCATING FOR EITHER PARTY BECAUSE THAT IS THE ROLE OF THE ATTORNEY;

TO INSTEAD PRESERVING, PROTECTING AND DEFENDING THIS INNOCENT,

DEVASTATED, DESTROYED, PERMANENTLY DISABLED, AND BECAUSE OF THE

CRUEL AND UNUSUAL ACTS OF THE DEFENDANTS, MENTALLY DEVASTATED

PLAINTIFF FROM THE OUTRAGEOUS MALICIOUS CONDUCT OF THE DEFENDANTS

AND AGGRESSIVELY MOVE TO DEFEND THIS PLAINTIFF. IN ESSENCE BECAUSE OF 28

USC 1343 *INTER ALIA*, THE COURT MUST MOVE FROM NEUTRALITY TO **PROTECTION**

ADVOCACY ON THE PART OF THE PLAINTIFF!! THIS IS BECAUSE THE COURT

UNDERSTANDS THE FEDERAL LAWS AGAINST FRAUD; AND THE PLAINTIFF DOES

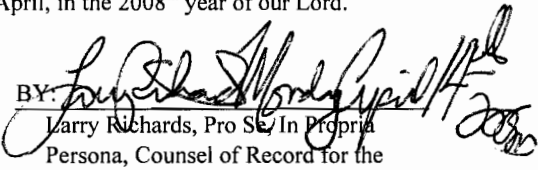
1 NOT; BECAUSE THE COURT UNDERSTANDS THE CONSTITUTIONAL PROTECTIONS
 2 GUARANTEED TO THIS PLAINTIFF; AND THE PLAINTIFF DOES NOT; BECAUSE THE
 3 COURT UNDERSTANDS THE VARIOUS JURISDICTIONAL HEADS OF A CIVIL RIGHTS
 4 CLAIMS FOR A CAUSE OF ACTION; AND THE PLAINTIFF DOES NOT! Therefore you cannot
 5 shirk your responsibilities to the Innocent Plaintiff and all Free Americans to reign in this recalcitrant
 6 Agency and punish them and make them, like all common thieves, pay seven-fold *inter alia*!

7
 8
 9
 10 *THE GREAT ARCHBISHOP OF PEACE: THE RIGHT HONOURABLE DESMOND TUTU*
 11 *WOULD SAY IT TO THIS COURT IN A MORE ARTICULATE MANNER WITH GREATER*
 12 *SUCCINCTITY THAN I EVER POSSIBLY COULD!:*

13
 14 *"If you are neutral in situations of injustice, you have chosen the side of the oppressor." ---*
 15 *Archbishop Desmond Tutu, Quoted in the Global Human Rights Torch Relay, April 5th, 2008,*
 16 *11:00AM, Union Square, San Francisco, California 94133, and AGAIN, in person, Tuesday, April*
 17 *08, 2008, at 8:00PM at United Nations Plaza, San Francisco, California 94102.*

18
 19
 20
 21 **RESPECTFULLY SUBMITTED:**

22 Signed, Sworn, and Dated in San Francisco, California on this
 23 Monday, the 14TH day of April, in the 2008th year of our Lord.

24 BY: 
 25 Larry Richards, Pro Se/In Propria
 26 Persona, Counsel of Record for the
 27 Plaintiff: Larry Richards and IF
 28 APPOINTED PURSUANT TO THE
 EQUAL ACCESS TO JUSTICE ACT:
 Ms. Georgeana Roussos, 77
 McAllister, Second Floor;
 San Francisco, California 94102

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